IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

Mat.Appeal.No. 515 of 2007()

OP.340/2006 of FAMILY COURT, MALAPPURAM
.....

PETITIONER: RESPONDENT

ISAQUE P.K., AGED 31 YEARS,
S/O.(LATE) AHAMMED, PRIYAM TEXTILES AND
STICHING, PULIKKAL P.O., ERANADU TALUK,
MALAPPURAM DISTRICT.

BY ADV. SRI.MANJERI S SUNDER RAJ
SRI.B.PREMNATH (E)

RESPONDENTS: PETITIONERS
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1. JOHARA.C.M., AGED 26 YEARS,
D/O.(LATE) C.M.SALEEM, MIHRAJ PARAYAKKUTH HOUSE,
THENHIPALAM P.O., AMSOM AND DESOM, TIRURANGADI
TALUK, MALAPPURAM.

2. AMAL AHAMED, AGED 4 YEARS,
(MINOR), S/O.ISAQUE, REP. BY MOTHER
IST RESPONDENT.

BY ADV. SRI.BABU S. NAIR

THIS MATRIMONIAL APPEAL HAVING COME UP FOR ADMISSION ON 12/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.KOSHY & K.HEMA, JJ.

Mat Appeal No.515 OF 2007

Dated 12th November, 2007

JUDGMENT

Koshy,J.

A petition was filed before the Family Court by the respondents, wife and son of the appellant, for recovery of amount due to them. The Family Court ordered recovery of Rs.4,43,500/= with interest at the rate of 7% per annum. It was passed ex parte. That is challenged in this appeal. It is submitted that the property of the appellant is already attached. We are of the opinion that, in the interest of justice, appellant also should be heard before deciding the matter. We note that the respondents were also applied for past maintenance at the rate of Rs.2,000/= per month for the first respondent wife and Rs.1,000/= per month for the second respondent son. Rs.4,43,500/= includes that amount also.

2. Heard counsel for the respondents. In the circumstances of the case, we set aside the ex-parte order on the following conditions: Attachment of the property will continue. Appellant shall pay Rs.5,000/= as cost and Rs.10,000/= towards past maintenance within three weeks from today. On complying with the conditions, case shall be restored to filed. Family Court shall post the case on 17.12.2007. Both parties can

take notice and no further adjournment can be sought for by the appellant. If the conditions are not fulfilled within the time stipulated, the appeal shall stand automatically dismissed.

The appeal is disposed of accordingly.

J.B.KOSHY
JUDGE

K.HEMA
JUDGE

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